

FILED

AUG 17 2009

DAVID CREWS, CLERK
By: *[Signature]* Deputy

2:09CV147-M-S

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KAO SENG SAELEE,

Plaintiff,

v.

CAPTAIN BANKS,

Defendant.

Case No. CV 09-5412

ORDER TRANSFERRING ACTION
TO UNITED STATES DISTRICT
COURT FOR THE NORTHERN
DISTRICT OF MISSISSIPPI, DELTA
DIVISION

On August 3, 2009, plaintiff filed a Request to Proceed without Prepayment of Filing Fees ("IFP Application") and lodged a Civil Rights Complaint which purports to state claims pursuant to 42 U.S.C. § 1983. Federal law provides:

A civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.

1 28 U.S.C. § 1391(b). In addition, “[t]he district court of a district in which is filed
2 a case laying venue in the wrong division or district shall dismiss, or if it be in the
3 interest of justice, transfer such case to any district or division in which it could
4 have been brought.” 28 U.S.C. § 1406(a). The court has authority on its own
5 motion to decide the venue issue and to dismiss or transfer the action before a
6 responsive pleading is filed. See Costlow v. Weeks, 790 F.2d 1486, 1488 (9th Cir.
7 1986).

8 The Complaint alleges that plaintiff currently resides at the Tallahatchie
9 County Correctional Facility which is located in Tutwiler, Mississippi. (Complaint
10 at 2, § C). Plaintiff names as the sole defendant, Captain Banks, who is employed
11 at the Tallahatchie County Correctional Facility. (Complaint at 3, §§ C1, C2).
12 Plaintiff complains of actions taken by defendant at the Tallahatchie County
13 Correctional Facility (Complaint at 2, § C). The Tallahatchie County Correctional
14 Facility is in Tallahatchie County, which falls within the boundaries of the
15 Northern District of Mississippi, Delta Division. 28 U.S.C. § 104(a)(3). Plaintiff
16 has stated no basis for venue in the Central District of California, and it appears
17 that venue is proper in the Northern District of Mississippi, Delta Division.

18 THE COURT HEREBY FINDS:

- 19 1. Venue for the instant action does not lie in the Central District of
20 California.
- 21 2. Venue for the instant action lies in the Northern District of
22 Mississippi, Delta Division.
- 23 3. The interests of justice will be served by transferring this action to the
24 Northern District of Mississippi, Delta Division.

25 IT IS THEREFORE ORDERED that this action, including the IFP
26 Application as to which this court has not ruled, is transferred to the United States
27 District Court for the Northern District of Mississippi, Delta Division.
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1 IT IS FURTHER ORDERED that the Clerk of this Court shall effect such
2 transfer and shall serve a copy of this Order upon the plaintiff.

3 IT IS SO ORDERED.

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5 Dated: 8/6/09

6
7 *A. Collins*

8 HONORABLE AUDREY B. COLLINS
9 CHIEF UNITED STATES DISTRICT JUDGE

10 Presented by

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12
13 /s/ Jacqueline Chooljian

14 Honorable Jacqueline Chooljian
15 UNITED STATE MAGISTRATE JUDGE
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